

## Ombudsman's Determination

Applicant	Mr Y
Scheme	Principal Civil Service Pension Scheme ( <b>PCSPS</b> )
Respondents	My CSP The Cabinet Office

## Outcome

1. Mr Y's complaint is partly upheld and to put matters right, MyCSP shall pay £100 and the Cabinet Office shall pay £400 to Mr Y, for the significant distress and inconvenience caused.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr Y's complaint concerns the loss of his Death Benefit Nomination Forms (**DBN**), following a transfer of the PCSPS' administration from another company to MyCSP.

## Background information, including submissions from the parties

4. Mr Y was a member of the PCSPS from 1987 until he left the Civil Service in 2006. Prior to leaving, in March 2006, the PCSPS's administrator at the time, provided Mr Y with a pension statement which contained his correct information. This included details of the beneficiary, on his DBN.
5. In 2014, Mr Y was informed by the Cabinet Office that the PCSPS' administrator had changed to MyCSP. Mr Y says that he subsequently contacted MyCSP and was "horrified" to learn that only some of his personal information that was held by the previous administrator, had been transferred correctly to MyCSP. Mr Y says that after several years of attempting to restore the lost data, including his missing DBN, he raised a complaint through the PCSPS's internal disputes resolution procedure (**IDRP**).
6. In the IDRP stage one decision dated 27 June 2017, MyCSP explained the background to it becoming the administrator of the PCSPS. It also explained that although Mr Y had said he had received a deferred benefit statement from the

PCSPS' previous administrator, which included details of his death benefit nomination, it does not hold a DBN for Mr Y on its records.

7. MyCSP explained that in his application letter, Mr Y said that he did not consent for MyCSP to access his personal file for its investigation and he also did not include the documents in his possession, which he had claimed were missing, in his IDRP stage one application. Therefore, those documents could not be considered as evidence for the purpose of the investigation. Consequently, MyCSP was unable to uphold Mr Y's claim that MyCSP had lost his data.
8. However, MyCSP upheld the element of Mr Y's complaint concerning the incorrect postal address being on the new DBN that was sent to Mr Y in October 2014. MyCSP also upheld Mr Y's complaint concerning the outstanding information he had requested from MyCSP, as it had not yet been sent to him.
9. MyCSP noted that Mr Y had provided details of financial loss such as the cost of telephone calls and postage of letters to MyCSP. Consequently, it offered him an ex-gratia payment of £100, in relation to this.
10. Mr Y appealed the stage one IDRP decision as he felt it did not address the issue of his complaint, which was the loss of his personal data.
11. In the IDRP stage two decision dated 20 March 2018, the Cabinet Office did not uphold Mr Y's appeal. The Cabinet Office apologised to Mr Y for the service he received from MyCSP and explained the background to his membership in the PCSPS. The Cabinet Office also said:

"I understand that discovering that those details were missing would have been distressing, and you were concerned about the data protection aspect. I apologise that this was the case and I can assure you there has been no breach of your personal data. The records are not held in paper form, so there is no possibility of these being misplaced and accessed by unauthorised individuals. Any technical error will mean that either unfortunately information was deleted during the transfer, or could not transfer and was then securely deleted by [the PCSPS' previous administrator] ...

MyCSP now hold the correct nominee details and have also apologised for the problems you had more recently, and offered you financial compensation. So, I appreciate that this should not have happened but I am satisfied that MyCSP has now put matters right for you."

12. Dissatisfied with the IDRP responses, Mr Y referred his complaint to us and made the following comments:-
  - His concern is that should he die before the situation is corrected, how will his wishes be complied with?

- His financial loss relates to the cost of postage and time in contacting and responding to MyCSP and the Cabinet Office. At the first stage of the IDRP, MyCSP offered him £100 in respect of this.

## **Adjudicator's Opinion**

13. Mr Y's complaint was considered by one of our Adjudicators who concluded that further action was required by the Cabinet Office. The Adjudicator's findings are summarised below:-

- The Adjudicator believed that this situation had been quite upsetting for Mr Y, especially as he would have been concerned that his data had been lost. In addition, it would have been frustrating for Mr Y to have been informed that MyCSP had his DBN when in reality, it didn't.
- Therefore, the Adjudicator believed Mr Y should receive an award for the significant distress and inconvenience this situation had caused him.

14. In response to the Adjudicator's Opinion the Cabinet Office said:

"Having considered your comments, Cabinet Office would be willing to offer £400, in addition to the compensation MyCSP offered earlier (£100). The total compensation offer is therefore £500."

15. Mr Y did not accept the Cabinet Office's offer and in response made the following comments:-

- As he has progressed his complaint it has become clear that the DBN had never been provided to MyCSP but, had been lost by the Cabinet Office when it changed the PCSPS' administrator.
- The IDRP stage two decision is "most perplexing". Both he and MyCSP provided evidence to the investigating officer that his DBN was not held by MyCSP. The determination by the Cabinet Office that MyCSP had his DBN did not appear to be based on fact.
- When he challenged the Cabinet Office on this point, it was dismissed as not material or new evidence had been provided. Almost a year later, in correspondence with a third party, the Cabinet Office accepted that the IDRP stage two decision was based on assumptions rather than fact.
- The original offer that was put forward by the Adjudicator was £500 compensation from the Cabinet Office and he accepted that offer. As part of accepting that offer, he agreed not to claim the £100, previously offered by MyCSP.
- The Cabinet Office explained that its offer of compensation was £400 in addition to the £100 MyCSP had previously offered but, he did not accept the Cabinet Office's offer.

- In an attempt to fill in the gaps on his record, he sent a new, signed DBN to MyCSP. However, this appears to have been lost by MyCSP, for which MyCSP has apologised and offered £100 compensation.
  - He has not accepted the offer from MyCSP because he felt it was more important to get the Cabinet Office to admit that the data the PCSPS holds in relation to his pension, is incorrect and then to fill in those gaps from the copies of documents he has.
16. Consequently, the complaint was passed to me to consider and my findings are set out below.

### **Ombudsman's decision**

17. There is no dispute that Mr Y's DBN has been lost twice. I find that his original DBN going missing, resulted from the Cabinet Office's maladministration in not ensuring that all relevant data for Mr Y was transferred to MyCSP, when the PCSPS' administrator changed to MyCSP. However, I find that his second DBN going missing, was due to MyCSP's maladministration. Although I consider Mr Y's DBN going missing amounts to maladministration by both MyCSP and the Cabinet Office, I find that their maladministration has not resulted in him incurring a financial loss.
18. However, the maladministration has caused him significant distress and inconvenience and he should receive an award, in recognition of this. I say this because, I consider it would have been distressing for Mr Y to find out, in 2014, that his DBN was missing. The Cabinet Office should have ensured it checked that Mr Y's DBN was on file, before making such a statement in the IDRP stage two decision. In addition, MyCSP should have ensured that the correct return address was provided to Mr Y, when it sent him a new DBN form to complete, particularly as it was aware that his previous DBN had been lost and, that it was important for an up to date DBN to be on file, so that Mr Y's benefits could be distributed correctly.
19. I note Mr Y believes that the Cabinet Office should have offered him £500 instead of £400 for the distress and inconvenience this situation has caused him. I also note that he does not believe the Cabinet Office should have added its offer of an award to the offer MyCSP had previously made. However, I do not consider it would be reasonable to direct that one respondent bears the total cost of the award for the non-financial injustice Mr Y has incurred, when both respondents' actions equally caused the significant distress and inconvenience.
20. Therefore, I partly uphold Mr Y's complaint.

**Directions**

21. Within 21 days of the date of this Determination:

(i) the Cabinet Office shall pay Mr Y £400 for the significant distress and inconvenience caused; and

(ii) MyCSP shall pay Mr Y £100 for the significant distress and inconvenience caused.

**Anthony Arter**

Pensions Ombudsman

20 June 2019